



James Delaney appeals the revocation of his probation. Delaney raises one issue, which we restate as whether his sentence was inappropriate in light of the nature of the offense and the character of the offender. We affirm.

The relevant facts follow. On October 9, 2007, the State charged Delaney with battery by means of a deadly weapon as a class C felony. On February 14, 2008, Delaney pled guilty as charged, and the plea agreement capped his sentence at four years. On March 31, 2008, the trial court sentenced Delaney to two years to be served on house arrest with electronic monitoring and two years suspended.

On May 20, 2008, the State filed a petition to revoke alleging that Delaney had violated the conditions of his home detention by testing .009% BAC on a breathalyzer test on May 12, 2008 and by testing positive for marijuana twice in April 2008. On June 9, 2008, Delaney admitted the allegations in the petition. On July 3, 2008, after a hearing, the trial court revoked Delaney's probation and ordered Delaney to serve his four-year sentence in the Indiana Department of Correction. Delaney filed a motion to correct error, which the trial court denied.

Delaney challenges the appropriateness of the sentence imposed for his probation violation. He argues that, in reviewing his sentence, we should apply the standard set forth in Ind. Appellate Rule 7(B). This rule provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Prewitt v. State, 878 N.E.2d 184, 187-188 (Ind. 2007).

However, the Indiana Supreme Court has held that Ind. Appellate Rule 7(B) is not the correct standard to apply when reviewing a sentence imposed for a probation violation. See id. at 188.

Probation is a matter of grace left to trial court discretion, not a right to which a criminal defendant is entitled. Id. The trial court determines the conditions of probation and may revoke probation if the conditions are violated. Id. (citing Ind. Code § 35-38-2-3). Once a trial court has exercised its grace by ordering probation rather than incarceration, the judge should have considerable leeway in deciding how to proceed. Id. If this discretion were not afforded to trial courts and sentences were scrutinized too severely on appeal, trial judges might be less inclined to order probation to future defendants. Id. Accordingly, a trial court's sentencing decisions for probation violations are reviewable using the abuse of discretion standard. Id. An abuse of discretion occurs where the decision is clearly against the logic and effect of the facts and circumstances. Id.

Here, Delaney has previously been placed on house arrest three times and has violated the conditions of his house arrest three times. In the present case, within weeks of being sentenced to house arrest for the battery by means of a deadly weapon conviction, Delaney tested .009% BAC on a breathalyzer test and tested positive for marijuana twice. Given Delaney's numerous violations of probation, we cannot say that the trial court abused its discretion by ordering him to serve his sentence in the Indiana Department of Correction. See Abernathy v. State, 852 N.E.2d 1016, 1022 (Ind. Ct. App.

2006) (holding that the trial court did not abuse its discretion by ordering defendant to serve his suspended sentence).

For the foregoing reasons, we affirm the revocation of Delaney's probation.

Affirmed.

ROBB, J. and CRONE, J. concur